

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

LEONARD C. GILMORE,

Petitioner,

v.

MONTGOMERY COUNTY
COMMON PLEAS COURT,

Respondent.

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Case No. 3:16-cv-240

JUDGE WALTER H. RICE

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #3);
OVERRULING PETITIONER'S OBJECTIONS THERETO (DOC. #4);
DISMISSING COMPLAINT (DOC. #2) WITHOUT PREJUDICE TO
REFILING IN A COURT OF COMPETENT JURISDICTION; JUDGMENT
TO ENTER IN FAVOR OF RESPONDENT AND AGAINST PETITIONER;
DENYING CERTIFICATE OF APPEALABILITY AND LEAVE TO APPEAL
IN FORMA PAUPERIS; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by Magistrate Judge Michael R. Merz in his June 15, 2016, Report and Recommendations, Doc. #3, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing in its entirety, and DISMISSES Petitioner's Complaint, Doc. #2, for lack of subject matter jurisdiction, WITHOUT PREJUDICE to refiling in a court of competent jurisdiction.


Petitioner's Objections, Doc. #4, which are completely non-responsive to the question of subject matter jurisdiction, are OVERRULED.

Given that the Court's decision herein would not be debatable among reasonable jurists, and because any appeal from this Court's decision would be *objectively* frivolous, Petitioner is denied a certificate of appealability, and is denied leave to appeal *in forma pauperis*.

Judgment will be entered in favor of Respondent and against Petitioner.

The captioned case is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

Date: June 23, 2016



WALTER H. RICE
UNITED STATES DISTRICT JUDGE